



*Preserving America's Heritage*

**MINUTES**

**SUMMER BUSINESS MEETING**

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**JULY 10, 2019**

**WASHINGTON, D.C.**

**MEETING**  
**ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**Smithsonian Castle**  
**Washington, D.C.**  
**July 10, 2019**

**PROVISIONAL AGENDA**

**Call to Order 8:45 a.m.**

- I. Chairman's Welcome
- II. Chairman's Award for Achievement in Historic Preservation
- III. Transition to Full-Time ACHP Chairman
  - A. Transition Process
  - B. ACHP Executive Committee
- IV. Section 106 Issues
  - A. Digital Information Task Force Proceedings
  - B. National Park Service Proposed Rule on National Register Nominations
  - C. Federal Communications Commission Program Comment for "Twilight Towers"
  - D. Government Accountability Office Report "Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects"
  - E. Update on Prior Section 106 Issues
- V. Historic Preservation Policy and Programs
  - A. White House Opportunity and Revitalization Council and the ACHP
  - B. Legislation
  - C. Planning for the Semiquincentennial
- VI. Committee Reports
- VII. New Business
- VIII. Adjourn

**IN ATTENDANCE**

**Leonard Forsman**, Vice Chairman  
**Terry Guen**  
**Luis Hoyos**  
**Dorothy Lippert**  
**Robert Stanton**  
**Jordan Tannenbaum**  
**Brad White**

Architect of the Capitol

**Christine Mardon**  
Acting Architect of the Capitol

Secretary of Agriculture

Represented by:  
**Dan Jirón**  
Acting Deputy Under  
Secretary

Secretary of Defense

Represented by:  
**Maureen Sullivan**  
Deputy Assistant  
Secretary of Defense  
(Environment, Safety &  
Occupational Health)

Administrator, General Services Administration

Represented by:  
**Beth Savage**  
Director, Center for  
Historic Buildings,  
Public Buildings  
Service

Secretary of Homeland Security

Represented by:  
**Teresa Pohlman**  
Executive Director,  
Sustainability and  
Environmental  
Programs

Secretary of Housing and Urban Development

Represented by:  
**Stanley Gimont**  
Deputy Assistant  
Secretary for Grant  
Programs

Secretary of the Interior

Represented by:  
**Ryan Hambleton**  
Deputy Assistant  
Secretary for Fish and  
Wildlife and Parks  
  
**Caroline Henry**  
Federal Preservation  
Officer

Secretary of Transportation

Represented by:  
**Loren Smith**  
Deputy Assistant  
Secretary for Policy

Secretary of Veterans Affairs

Represented by:

**Anthony Costa**  
Acting Executive  
Director, Office of  
Construction and  
Facilities Management

Native American/Native Hawaiian Member

**Reno Keoni Franklin**  
Chairman Emeritus, Kashia  
Band of Pomo Indians

President, National Conference of State Historic  
Preservation Officers

**Mark Wolfe**  
Texas State Historic  
Preservation Officer

General Chairman, National Association of Tribal Historic  
Preservation Officers

**Shasta Gaughen**  
Pala Band of Mission Indians  
Tribal Historic Preservation  
Officer

Chair, National Trust for Historic Preservation

Represented by:

**Paul Edmondson**  
President

### **OBSERVERS**

Managing Director, Council on Environmental Quality

Represented by:

**Ted Boling**  
Associate Director for  
NEPA

President, ACHP Foundation

**Katherine Slick**  
Historic Preservation Consultant

Incoming ACHP Chairman

**Aimee Jorjani**

In attendance and participating in the meeting were ACHP Executive Director John M. Fowler; ACHP Office Directors Reid Nelson, Druscilla Null, Valerie Hauser, Javier Marques; Anne-Marie Fennell, Director, Natural Resources and Environment team, Government Accountability Office; Valerie Grussing, Executive Director, National Association of Tribal Historic Preservation Officers; Jim Campi, Chief Policy and Communications Officer, American Battlefield Trust; Richard Kurin, Smithsonian Distinguished Scholar and Ambassador-at-Large; and Jill Springer, Federal Preservation Officer, Federal Communications Commission.

## **PROCEEDINGS**

### **Vice Chairman's Welcome**

Advisory Council on Historic Preservation (ACHP) Vice Chairman Leonard Forsman opened the summer business meeting at 8:45 a.m. He asked Robert Stanton to lead the Pledge of Allegiance. Vice Chairman Forsman holds the proxy for Chairman Wayne Donaldson, who was absent from the meeting. The agenda was adopted with a motion by Reno Franklin, and a second by Mr. Stanton. Vice Chairman Forsman appointed Shayla Shrieves recorder of the meeting. The minutes from the April business meeting were adopted with a motion from Luis Hoyos and second from Jordan Tannenbaum. Vice Chairman Forsman conveyed a message from Chairman Donaldson sending his congratulations to Aimee Jorjani on becoming the ACHP's first full-time chairman.

Vice Chairman Forsman said Ms. Jorjani is confirmed but not yet officially on board. There are processing requirements to be fulfilled before she can formally assume the chair. Due to her current status, she is not formally a member of ACHP, but the Operating Procedures allow the chairman to invite an individual to be an observer at the ACHP meetings. Vice Chairman Forsman asked Ms. Jorjani to be an observer today and thanked her for her commitment.

Ms. Jorjani said she was delighted to be at the meeting and thanked the ACHP, particularly Chairman Donaldson, for all the work that has been done during this time of transition. She thanked the ACHP staff for their continuing work on the Federal Permitting Council and all the other activities. She said she is looking forward to starting the job and appreciates everyone's patience as she transitions into this role.

Vice Chairman Forsman acknowledged Paul Edmondson, newly appointed President of the National Trust for Historic Preservation; Stanley Gimont, Deputy Assistant Secretary for Grant Programs, representing the Secretary of Housing and Urban Development; and Loren Smith, Deputy Assistant Secretary for Policy representing the Secretary of Transportation. The members introduced themselves. Vice Chairman Forsman said he believes this is the first time an American Indian has chaired an ACHP business meeting.

He then called on Richard Kurin to provide welcoming remarks on behalf of Smithsonian Secretary Lonnie Bunch and thanked the Smithsonian for hosting the ACHP. Dr. Kurin said, on behalf of Secretary Bunch and the Smithsonian Institution, it was a great pleasure to have the ACHP meeting here. He said the Smithsonian respects the work of the ACHP and has relied on it. He gave a history of the institution. Vice Chairman Forsman also thanked Sharon Park, the Smithsonian's Federal Preservation Officer, for making all the arrangements, and Katherine Slick for organizing the members' dinner the previous night.

### **Staff Updates**

John Fowler said the ACHP hired Emily Choi to be an assistant historic preservation specialist joining the staff this fall. She was an intern twice with the ACHP in the past two years. He mentioned there are three interns this summer and thanked Judy Rodenstein for her good work in managing the intern program. He introduced Jonathan Stark-Sachs, a law student at Roger Williams University, working in the Office of General Counsel; Veronica Martin, in a master's program at the University of Maryland, working in the Office of Federal Agency Programs on training; and Audrey Kelly, a recent graduate from the University of Virginia's master's program in architectural history, who is a joint intern with the Office of Preservation Initiatives and the Office of Communications, Education and Outreach. He also noted staff member Blythe Semmer has successfully defended her dissertation and will receive her PhD from the University of Maryland in August.

Mr. Fowler also said the previous day the World Heritage Committee inscribed eight Frank Lloyd Wright buildings on the World Heritage List. Brad White said he was pleased at the inscription and has been looking forward to this since they were originally nominated more than two years ago. It has been one of his major projects, as his organization was a major donor for the restoration of Wright's Unity Temple.

At this time, Mr. Gimont left the meeting.

### **Chairman's Award for Achievement in Historic Preservation**

Vice Chairman Forsman began the ceremony to award the ACHP Chairman's Award for Achievement in Historic Preservation for the restoration of NASA's Apollo Mission Control Center in Houston, Texas. The project has preserved one of the most important and critical sites associated with the space program. Two weeks ago, Mr. Fowler, Chairman Donaldson, and several staff members had the great honor of attending the ribbon cutting and grand opening of the Mission Control Center. The ACHP is proud to have played a role in bringing this project to fruition through its funding authority, which allowed privately raised funds to be donated to NASA for this specific restoration. This award recognizes the Johnson Space Center; Space Center Houston; the city of Webster, Texas; and the Manned Space Flight Operation Association. Mr. Stanton welcomed the guests: Mayor Pro-Tem Councilwoman Andrea Wilson and Councilwoman Beverly Gains from Webster, Texas; Sandra Tetley, Historic Preservation Officer at NASA's Johnson Space Center; Adam Graves owner/principal GRAVitate; Mark Wolfe, Texas State Historic Preservation Officer; and Rebecca Klein, NASA Federal Preservation Officer.

Mr. Stanton thanked Rep. Brian Babin of Texas who was able to join the group before the business meeting to meet the award winners. He introduced a video presentation. All the award winners addressed the council members offering their thanks and stories of the preservation successes and hard work that went into this massive restoration.

Mr. Fowler added Chris Daniel and Javier Marques were the two ACHP staff members instrumental in making this happen. One of the great aspects of this particular project is the demonstration of the ACHP's ability to use its authority to accept funding in order to support the preservation efforts of other federal agencies. Mr. Fowler said the ACHP would be happy to do more of this type of work. Vice Chairman Forsman said this is a good example of creativity.

### **Transition to Full-Time Chairman**

Vice Chairman Forsman said converting the chairman position to full time fulfilled the goal of the ACHP, dating from the 2006 Preserve America Summit, which looked at ways to improve the effectiveness of the national historic preservation program. Last summer, the chairman had established a transition working group to coordinate the transition efforts. While the proposal for formalizing an ACHP Executive Committee was one product, the drawn-out confirmation process delayed doing that. With the confirmation of the new chairman, the ACHP can now move forward.

Vice Chairman Forsman noted he is already seeing opportunities for the ACHP to address issues that have defied resolution. He said oftentimes there is a solution, but it cannot be implemented because the ACHP lacks the political infrastructure. Now with a full-time chairman, there will be more opportunities to address those issues.

### **Strategic Plan**

Dru Null came to the table to update members on the strategic planning process. The basic requirements of a federal agency strategic plan are to have a mission statement and long-term goals that are directed at fulfilling that mission statement. In turn, each long-term goal has strategic goals that hang under it to be

accomplished within four years or a bit longer. While the chairman's confirmation process was pending, ACHP members took several steps to lay the groundwork for moving forward when she was on board.

Ms. Null said, based on previous strategic planning efforts, the staff outlined the proposed planning process. A draft plan would be developed, presented to members for discussion at the November business meeting. Members would then determine the next steps. If the plan needed some revisions and not be in a position to be adopted at the November meeting, it could be adopted at an unassembled meeting later. Or if further work was necessary, it might have to be finalized at the spring 2020 meeting.

Vice Chairman Forsman said the transition group will be working with the new chairman to adopt an approach. Mr. Fowler asked if members had suggestions for a venue to have the strategic planning meeting. Mr. Hoyos asked that materials be distributed ahead of time, so members can study them.

### **Executive Committee**

Vice Chairman Forsman said one of the actions taken last year as part of the transition process was the circulation of a questionnaire to members and staff on a variety of operational and organizational issues. The formalization of the ACHP's Executive Committee was singled out. At the spring business meeting, there was a general consensus on the framework for this committee.

He invited Mr. Marques to the table to present draft Operating Procedure amendments. Mr. Marques said as part of the discussions on the transition to having a full-time chairman, one of the issues that came up was formally establishing the Executive Committee. He gave an overview of draft Operating Procedure amendments to do this and asked that the members look at the draft and provide comments and edits within the next two weeks. Staff will then work with the incoming chairman and then provide proposed amendments for member action by an unassembled meeting vote.

Maureen Sullivan asked if the committee would continue to meet in the morning of each business meeting, and is there ability for either the Executive Committee or the chairman to call ad hoc meetings if there is a special interest item that comes up. Mr. Marques said yes, they could continue to meet directly before a business meeting, and the committee or the chairman could call for a meeting at any time.

Mr. White asked if there is any limitation on the actions the Executive Committee can take. Mr. Marques said yes; there are only four authorities that the Executive Committee has. The fourth item in the authority is a catch-all, that members can vote to give them more authorities.

Mr. Tannenbaum asked if the committee could weigh in on budgetary issues. Mr. Marques answered that the chairman already has inherent authorities within the Operating Procedures to deal with the budgetary issues, but this is one of the topics that the Executive Committee could advise on.

Teresa Pohlman said she is not clear on what is meant by legislative matters. Mr. Marques said these might be instances when the ACHP has to take immediate action and there is no time to consult the full membership. The Operating Procedures require the executive director and the chairman to consult with the full membership or with a subgroup. This is establishing the Executive Committee as that subgroup.

Mr. Franklin asked if the chairman could appoint a different observer in the case of discussions about the executive director, who sits as an observer. Mr. Marques said yes, it needs to be specified. Mr. Tannenbaum suggested the possibility of having an executive session to take care of issues like that.

Vice Chairman Forsman asked about any differences between this proposal and the strategic planning documents, because they both address how the chairman does business. Mr. Marques said the Operating Procedures are procedural. The strategic plan is substantive about the policies and the agency's work.

Terry Guen asked if anybody who is a member can call a meeting. Mr. Marques said the way it is set up, the chairman would be the person setting the meetings. Members can at any point, either in the Executive Committee or outside, ask for a special meeting, but it is not specified.

He added, amendments to the Operating Procedures need 16 affirmative votes or more. Mr. Fowler stressed that his goal is to get consensus among the members on the outcome.

### **Digital Information Task Force**

The Digital Information Task Force is under the leadership of Mr. Tannenbaum. Members include the Departments of the Interior (DOI) and Transportation; Council on Environmental Quality, National Conference of State Historic Preservation Officers (NCSHPO), National Association of Tribal Historic Preservation Officers (NATHPO), National Alliance of Preservation Commissions, the National Trust, and Expert Member Dorothy Lippert.

Mr. Tannenbaum said at the May meeting the task force decided to focus on the development of recommendations for an action plan on four proposed issue areas. The committee also discussed the benefit of advancing FY21 budget recommendations that might further the goals of the task force.

The National Trust, NCSHPO, and other preservation partners sought a \$5 million Historic Preservation Fund appropriation for competitive grants programs for SHPOs and THPOs to create enhanced GIS layers of cultural resources and predictive models in FY20. He said while an appropriation was not included, the ACHP could recommend such a program be included in the Administration's FY21 request. It relates to the task force's goals and the ACHP's broader participation in improving infrastructure-permitting efficiency by making data about historic properties available to inform the early stages of planning.

Dr. Pohlman offered FEMA's help or information for the ACHP. She said often times different states have different standards for their GIS databases and how they actually keep and format the data. She said this has been a problem in having the databases talk to each other. She asked if there is any move on the group's part to try to get some standardization. Mr. Tannenbaum said that is one of the main focuses of this particular initiative.

### **National Park Service Proposed Rule on National Register Nominations**

In April, the National Park Service (NPS) issued a proposed rule that would implement provisions of legislation enacted in 2016 that amended the process for federal agency nominations of their historic properties to the National Register. The proposed rule includes some other provisions affecting the National Register of Historic Places nomination process. Vice Chairman Forsman said the proposed rule may also affect how the determination of eligibility process in Section 106 is implemented and raised a variety of concerns in the preservation community and among tribal nations. He asked Ryan Hambleton to brief members on the rule-making process and speak to issues that were raised in the consultations.

Mr. Hambleton said NPS put a notice in the *Federal Register* on May 24 indicating that it was going to initiate tribal consultation. On June 24, there was a consultation session at a meeting of the National Congress of American Indians in Sparks, Nevada, which Vice Chairman Forsman attended and spoke at. Following that, there was a teleconference on July 1. The tribal comment period closed on July 8.

He said he did not have anything additional to report out at the moment, since the comment period just closed. Staff are still processing comments. Mr. White asked how many comments did NPS receive during the original comment period and how many were in favor of the proposed rules. Mr. Hambleton said he thought it was a few thousand, and it was quite overwhelmingly against.



Shasta Gaughen thanked NPS for reopening the comment period on behalf of tribes but noted the NPS meetings do not constitute tribal consultation, because they were not government-to-government. She expressed concern that the changes would remove the ability to comment on effects to historic properties, not just from the Native American standpoint but for all historic properties.

Mr. Franklin said he hoped NPS will take those comments seriously, noting a ratio of 3,300 negative comments to five positive does not happen too often. He asked NPS to consider what the tribes are asking and move accordingly.

Ms. Guen said she wanted to say a couple words on behalf of communities that are not represented in the National Register. There are a lot of communities doing catch-up work right now, and are enthusiastic about having an opportunity to be listed, realizing that National Register listing provides an opportunity to share their stories, especially about more recent immigrants.

Mr. White said at the last meeting he asked what problem the NPS is trying to address with this rule change but did not receive an answer. Mr. Hambleton said there are two parts to this rule. The first is to implement the 2016 amendments which Congress passed. The second is to strike a balance between private property rights and historic preservation. Mr. White asked what private property rights the National Register designation infringes upon. Mr. Hambleton responded that it is up to any individual how they decide they want to feel about being listed on the National Register.

Vice Chairman Forsman said it is troubling to him that the Department of the Interior feels that after 50 years of National Historic Preservation Act (NHPA) law, regulations, practice, and successes that something is not working or is unsuccessful. There are many successful things. To give private-property owners and federal agencies veto power over a collaborative process that does not prevent anybody from developing their property—they just may have to go through a bit more process—is problematic. He said, at least for the tribes, there is an ancient relationship to the landscape that goes back thousands of years and that is completely enshrined in language, in relationship to the land, and ceremonies. Everything is tied into these places where many Native Americans have been fortunate enough to being able to continue to live on. Many tribes were removed from those places and are trying to reclaim those relationships. He said he hopes Mr. Hambleton will take back to Secretary David Bernhardt and the other principals at the Department of the Interior, the importance and the impacts of this, as a short-term specific process.

Dorothy Lippert thanked Mr. Hambleton for coming to the meeting and for listening to everyone's opinions regarding this issue. She said it has been thousands of years that this land has been native land. Private property rights, by comparison, are a very recent thing. The proposed rules seem to ignore that. She said there is a continuum between the past and the present. These regulations in a sense try to make a division between the past and the present. She said there needs to be more consideration given to that link.

Mr. Edmondson said the National Trust has provided extensive comments on this proposal and is strongly against it. He said it is a matter of interest for the entire preservation community. Also, it is a matter of interest for the ACHP because it is the body that is set up to enforce the NHPA. In the National Trust's view, these regulations are incompatible with the NHPA. Mr. Hoyos asked Mr. Hambleton to sketch out the next steps in the process, and to offer his best guess of a calendar for what could be expected. Mr. Hambleton said it is hard to say. As noted, there were a lot of comments on this that critiqued it; some of them were very complex. He said it is going to take a while to look at all those and go over everything that they have heard. He cannot picture this happening in the next several weeks.

Ms. Gaughen asked Valerie Grussing to come to the table. Dr. Grussing said she wanted to address Mr. Hambleton's point about the intent of this bringing the regulations in line with the 2016 amendments. All lawyers she has talked to agree that that is demonstrably false. She said the 2016 amendments were intended to give State Historic Preservation Officers, Tribal Historic Preservation Officers, and local

communities a stronger voice in federal nominations, not to make agencies the sole conduit for federal nominations.

She said NATHPO thanks NPS for reversing its position that tribal consultation was not required. However, one group meeting and one teleconference are not government-to-government consultation. Through these listening sessions, NPS has now heard all about the effective consequences of these proposed actions, and so regardless of the intent, NATHPO hopes that the Secretary will now uphold the Department of the Interior's obligations to consult, and to make that consultation on the subject of whether this should proceed at all.

Mr. Fowler said at the last meeting there was some concern expressed by federal agencies regarding inter-agency coordination and review of these regulations before they went out. He asked if agencies still share that concern about an opportunity for inter-agency review and if there are plans for inter-agency review on the final regulation before it is published.

Ted Boling reiterated the purpose behind the interagency review requirements of E.O. 12866 and supported such review. He expects the Department of the Interior, in light of the comments received and their consultations, would reconsider that decision. The E.O. 12866 process would enable the public to provide their views to the Office of Information Regulatory Affairs (OIRA) about a final rule.

Dr. Pohlman said she thought it might be a useful thing to discuss this within the interagency group and talk with OIRA about the processes and procedures. The concerns that were brought up earlier have been reinforced by the comments received. Mr. Fowler said the ACHP was invited to meet with the OIRA staff person. The executive directors of NCSHPO and NATHPO, himself, and the ACHP's associate general counsel had the opportunity to express the views in the comment letters and elaborate on concerns.

### **Federal Communications Commission Comment for Twilight Towers**

Mr. Tannenbaum said the Federal Communications Commission (FCC) has been in discussions with the ACHP and others for many years about Twilight Towers and how to address the effects that may have occurred during their construction. Twilight Towers are cell towers that were built between 2001 and 2004 that may not have gone through Section 106 review. The FCC estimates that slightly fewer than 5,000 such towers may exist. Some speculate there may be more.

At this time, Mr. Gimont returned to the meeting.

Mr. Tannenbaum provided background on the FCC discussions. He said staff has advised FCC staff that in order to prepare for a discussion on the Program Comment in accordance with existing protocols for member engagement on the development of Program Comments, the ACHP would designate a panel of members to advise staff on negotiations to refine the current draft Program Comment. Mr. Tannenbaum said he would appreciate the chairman's direction on forming such a panel of members to advise staff going forward. Vice Chairman Forsman said he will have Ms. Jorjani follow-up with recruiting a panel.

Ms. Slick asked what options does a citizen, tribe, or state with a concern about an existing tower and its effect on historic resources have. Jill Springer came to the table and said the FCC has a collocation agreement executed in 2001 that largely excludes collocations on existing towers. It also has a nationwide Programmatic Agreement (nPA) executed in 2005 that sets out the Section 106 process for towers. She said, since the collocation agreement preceded the tower nPA, there was a proliferation of non-compliant towers or towers for which tower companies cannot prove that Section 106 reviews happened.

The nPA allows any member of the public, any member of a tribal nation, a SHPO, and anyone at any time to make a complaint to the FCC that a tower is having an effect on a historic property. Once that

happens, the FCC undertakes an investigation into that tower. During the time the complaint is pending, collocations are not allowed. The FCC wants to address the issue with a Program Comment for the Twilight Tower period, because only a small number of towers have been identified as having any issues through the complaint process.

Mr. Franklin volunteered to serve on the panel. He encouraged FCC to reach out to tribes as a federal agency, rather than waiting for tribes to come to them regarding concerns with cell towers. Ms. Gaughen said NATHPO would also like to be a part of that committee to discuss the Program Comment. She likes the idea of having some mechanism in place for mitigating effects, similar to the Positive Train Control Fund. Such a fund would go a long way, even if there are effects that have occurred that can no longer be mitigated, to be able to carry out some mitigation.

### **GAO Report: Tribal Consultation, Additional Federal Actions Needed for Infrastructure Projects**

Valerie Hauser came to the table and noted the ACHP met with the Government Accountability Office (GAO) several times and then advised GAO throughout the process, provided documentation, and reviewed and commented on drafts of the report. This is the third major report on the topic of tribal consultation for federal infrastructure development. The first was issued in January 2017 by an interagency group. The second was issued in May 2017 by the ACHP. Then this one was issued in March this year. All three reports taken together give a complete picture of tribal concerns regarding infrastructure development and provide a comprehensive set of recommendations.

Anne-Marie Fennell came to the table. She said this report was undertaken at the request of 26 congressional members including the chairman of the House Natural Resources Committee. GAO conducted a broad look at tribal consultation on infrastructure projects across 21 federal agencies. As part of the review, they looked at each of the agencies' regulations, policies, and guidance.

To obtain the tribal perspectives, they reviewed the oral and written comments of 100 tribes that had provided comments in 2016 to a White House call for comments on tribal consultation and opportunities for improvement on consultation for infrastructure projects. They supplemented the comments with additional interviews with 57 tribes. She gave a thorough overview of the findings. GAO recommended that these agencies develop in their policies how they would proceed with ensuring that they provided the appropriate feedback to tribes about how their input was considered in the decision-making process.

During the course of the GAO review, they also noted that there had been a long-standing disagreement between the ACHP and the Army Corps of Engineers Regulatory Program's guidance for implementing Section 106. Because there had been a number of unsuccessful attempts at resolution, GAO recommended that the Congress consider how such differences could be resolved.

She closed her presentation by noting that she will be monitoring the implementation of the recommendations and updating that information on the website.

Vice Chairman Forsman thanked Ms. Fennell and her staff for their great work. He said it is a very important report for the tribes to have, providing ways to improve the relationship. He is impressed with the amount of work that took place.

Ms. Gaughen acknowledged that tribal consultation is not always easy, as not every tribe has a THPO. She said she hopes that agencies understand that there needs to be flexibility to enable tribes to respond to those requests for consultation. As far as developing a database of tribes, she said there are models out there, and she hoped that is something that can be resolved.

Mr. Franklin said GAO has done some good work. The report identifies the agencies that are carrying out their consultation responsibility in an appropriate manner. He encouraged follow-up with the 16 agencies that did not have policies for reporting decisions to tribes. He noted that some of the responsibility is on tribes to give updated contact information.

Dr. Lippert said the report is very thorough with a lot of good details about the challenges for agencies and for tribes. She noted the discussion of how some agencies need training on the basic level about what tribes are, about tribal sovereignty, and tribal history and culture. She asked Ms. Hauser if there are things the ACHP could do to support agencies in dealing with these challenges. Ms. Hauser responded that a course was launched in 2008 by an inter-agency working group, titled “Working Effectively with Tribal Governments,” and will be back online shortly. It is a free basic course that answers many of the issues that GAO identified. The ACHP has also just launched an online, on-demand course on early coordination with Indian tribes, primarily focused on infrastructure development. It also covers many of the basic concepts that someone would need to know in the context of Section 106.

The ACHP is also in the final stages of developing a handbook on early coordination and collaboration. It has sets of recommendations for federal agencies that permit undertakings, for Indian tribes to help them be better prepared to participate in the process, and for applicants. Both the Offices of Federal Agency Programs and Native American Affairs (ONAA) have issued an enormous amount of guidance, primarily focused on federal agencies, that all speak to many of these same issues.

Ms. Hauser noted that there are opportunities as a member of the Permitting Council, and she has been invited to present to the Federal Preservation Officers about some important topics regarding tribal consultation. Dr. Lippert recommended that all of these things continue; she sees these as efficiencies for agencies, because they help agencies avoid conflict. In her experience as a Native American archaeologist, when there are tribal members working as archaeologists, project reviews can move more quickly and efficiently.

Ms. Hauser reported on work with Salish Kootenai College to train and encourage young native people who are looking at historic preservation as a career. Dr. Lippert sees that as another kind of efficiency. When tribal members work for tribes or for federal agencies, they can help the agencies be more efficient. She suggested that training the next generation should be watched to see how it improves tribal consultation.

Ms. Guen said the report provides a score card of sorts that can lead to improvement in performance. She understands these types of reports cannot be produced for all issues, but this kind of investment is often needed to tackle these complex matters.

### **Update on Prior Section 106 Issues**

Reid Nelson came to the table for an update on Section 106 issues including developments regarding the Providence Viaduct Bridge project in Providence, Rhode Island. The ACHP provided its formal comments to the administrator of FHWA on May 3, 2017, via a chairman’s letter. The focus of the comments addressed the transfer of three parcels of land significant to the Narragansett Indian tribe. The transfer to the tribe had been agreed to in a Programmatic Agreement, but FHWA was unable to fulfill the terms of that agreement.

In an unusual step, FHWA responded to the ACHP’s comments on June 28, 2018, indicating that, rather than addressing the comments, it would reinstate Section 106 consultation. The ACHP has been participating in that attempt to reach agreement once again on the resolution of adverse effects. FHWA has taken steps to ensure the long-term protection of one of the properties and is working on developing a Programmatic Agreement to establish measures to do the same for the other two properties. FHWA has

not been able to transfer the properties themselves to the tribe as envisioned in the original agreement. Instead, they are being held by the state. FHWA is working on covenants that would ensure the long-term protection of historic properties on those parcels.

Mr. Nelson continued with discussion of the ACHP comments to the Secretary of the Navy on the Growler expansion, provided on February 19, 2019. They urged the Secretary to carry out additional noise analysis to refine its adverse effects analysis and made some recommendations on mitigation actions. The Navy responded that it had determined that additional noise analysis was unnecessary and also indicated they would explore those programs to afford protections to the rural areas. They indicated their intention to move forward on funding some rehabilitation at the Ferry House.

Mr. Nelson noted that the Navy has begun to implement the undertaking and was told that they are moving forward in providing funding on the rehabilitation of the Ferry House. It is reported that the attorney general for Washington filed a lawsuit yesterday. Mr. Stanton asked if it is true that a Member of Congress has introduced a bill that would direct the Navy to conduct a noise impact and mitigation study. Mr. Nelson said he did not know for sure but would look into it.

Mr. Nelson acknowledged that the members voted to adopt the recent amendment to the Program Comment for the rail rights-of-way and extend the time period allowed for the Department of Transportation to October 14, 2019, for developing guidance to implement the second component of the Program Comment. The ACHP is taking steps to share it broadly with the preservation community to comment to the Department of Transportation. He encouraged members to share it with others. A teleconference will be scheduled in about two weeks for members to share their views with the staff. He thanked Colleen Vaughn, Federal Preservation Officer with the Department of Transportation.

### **Historic Preservation Policy and Programs**

Mr. White recounted the White House had established the Opportunity and Revitalization Council, chaired by the Secretary of HUD under Executive Order 13853. This was to promote revitalization in urban economically distressed communities, particularly in Opportunity Zones. At that time, the ACHP was not identified as a member of the new council. Chairman Donaldson wrote the Secretary of HUD requesting designation to the Council. Just yesterday, the ACHP received a letter denying the request.

Subsequently, Executive Order 13878 was issued, establishing another council known as the Council on Eliminating Regulatory Barriers to Affordable Housing, also chaired by the Secretary of HUD. This E.O. indicated that historic preservation was one of the barriers to affordable housing. Again, the ACHP was not, as part of the E.O., made a member of that council. This was discussed at the Preservation Initiatives (PI) Committee.

Mr. White gave an overview of ACHP work in the affordable housing area over the past 15 years. The general consensus of the PI Committee was that the ACHP should: ask that the Secretary reconsider his decision denying the request to be on the revitalization council; and request to be on the affordable housing council, particularly since historic preservation is mentioned specifically as one of the perceived barriers to affordable housing, and the ACHP has expertise in this topic.

Mr. Gimont said he could not provide a lot of insight into the decision of the Secretary with respect to the rejection of the request. He said the ACHP can ask for a reconsideration of that, but he had the sense that the decision has been made, and HUD would be moving forward.

With regard to the affordable housing council, he urged the members to submit a request for inclusion and participation in that. He said the point Mr. White made with regard to the specific mention of the Section 106 concerns establishes a good foundation for making that request. He said HUD is promoting the

Administration's policy goals to devolve some of the authorities under various programs for community development and affordable housing back to the state and local level while honoring the congressional intent, as demonstrated by appropriations for these programs, that they continue.

Dr. Lippert said she supports making the request to join the affordable housing council. She served on the jury for the ACHP-HUD Award in years past and noted there is no reason why affordable housing cannot go hand-in-hand with historic preservation.

Mr. Hoyos said the ACHP would like to be at the table, in recognition of the accumulated knowledge in the ACHP on these very complex planning issues. He noted that the planning of modern cities has evolved considerably, and that preservation is part of urban planning.

Ms. Guen urged HUD to include the ACHP on the Opportunity Zones council. Mr. Gimont said HUD is trying to encourage the use of funding under housing programs such as CDBG and HOME. He thinks there remains a lot of misinformation and misunderstanding with the application of Section 106.

Mr. Fowler interjected that maybe they should talk further about having a HUD liaison at the ACHP. Mr. White suggested scheduling at some future meeting a time for more discussion about Opportunity Zones, and how Section 106 and HUD work together.

Mr. Wolfe said that, although this is a new Executive Order, it is virtually word for word out of a report from the previous Administration. This is a bipartisan issue that needs to be addressed head-on. He urged the ACHP to be as involved as it can be in responding.

Mr. White said he would make the first motion, to move to direct the chairman to request reconsideration of the Secretary of HUD's decision to deny ACHP participation on the Opportunity and Revitalization Council under Executive Order 13853. Mr. Hoyos seconded it.

Ms. Sullivan said that if the Secretary has made a decision, the federal agency members would not question his decision. She said if HUD is willing to revisit, she was not quite sure what new information is available. Mr. Gimont said he was a bit unsure of the protocols. He understands the Secretary issued the letter yesterday, so it would seem there is an opportunity to ask for reconsideration, but the outcome is uncertain.

Vice Chairman Forsman said he was thinking that maybe the Secretary did not have all the information he needed when the decision was made.

Mr. Fowler said the federal agencies are members of the ACHP, and as a member of the ACHP, they need to decide what action the ACHP should take. If they feel bound somehow to defer to the decision of another agency, they should abstain or vote against it.

Beth Savage said that if there is information not presented in the first request, such as regarding the work of the ACHP on the Permitting Council, that would be relevant to asking for reconsideration. Dr. Pohlman agreed.

Mr. Fowler said the letter focused on preservation as a positive tool for revitalization; it did not draw on the experience with the Permitting Council regarding regulatory issues. He also noted that the letter was sent by the chairman appointed in the last Administration. Now that there is a full-time Senate-confirmed appointee of this Administration, he thought that should be grounds in itself for reconsideration.

Mr. Boling said it is simply to give the incoming chairman opportunity to revisit the question. It is an opportunity for reconsideration, not necessarily a directed reconsideration.

The vice chairman called the question, and the motion passed, with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

Mr. White offered another motion, to direct the chairman to pursue with the Secretary of HUD to include the ACHP as a participant in the Affordable Housing Council. Ms. Guen seconded it. The motion passed, with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

Mr. Fowler expressed frustration with latter vote, noting there has not been a decision made by the Secretary. The federal agencies are saying that they do not even support the ACHP going forward and seeking a seat on the Affordable Housing Council. Mr. Smith asked if an abstention is to be described in that way and said this issue probably needs more discussion. Vice Chairman Forsman said an abstention indicates a lack of information or authority or context to vote on an issue, not necessarily a vote against it.

Mr. White thanked Mr. Gimont for being at the meeting and making the presentation. Vice Chairman Forsman said, on behalf of Suquamish Tribe, he wanted to thank him for the work on CDBG grants. Those have had historic impact on his reservation by establishing housing.

Mr. White continued on with four more motions. He moved that the ACHP support the Restore Our Parks Act, Senate Bill 500, Restore Our Parks and Public Lands Act, House Bill 1225, and direct the chairman to advise the Congress of this support. Mr. Stanton seconded it. Vice Chairman Forsman waived the roll call vote and called for a voice vote. The motion passed with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

Mr. White continued. He moved that the ACHP support the Preserving America's Battlefields Act, that is Senate Bill 225 and House Bill 307, and the National Park Service recommendation that the bill be amended to require day of battle restoration efforts funded under the bill be performed in accordance with the Secretary of the Interior's Standards for Historic Preservation, and direct the chairman to advise the Congress of this support. Mr. Tannenbaum seconded it. The motion passed.

Mr. White moved that the ACHP support the Historic Tax Credit Growth and Opportunity Act, that is House Bill 2825, and direct the chairman to advise the Congress of this support. Mr. Hoyos seconded it.

At this time, Caroline Henry came to the table and Mr. Hambleton left. Ms. Henry said she just wanted to note that DOI will be abstaining on this. She clarified that this is not representing opposition to the bills or the proposed bills, but that language is in flux.

The motion passed with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

Mr. White moved that the ACHP support the National Heritage Area Act, that is House Bill 1049, and directs the chairman to advise the Congress of this support, and also to urge Congress to work with the National Park Service to address the operational concerns raised in the agency's testimony of April 30, 2019. Mr. Franklin seconded the motion. It passed with abstentions from the Departments of Veterans Affairs, Transportation, Defense, Agriculture, Homeland Security, Housing and Urban Development, Interior, and the General Services Administration.

## **America 250**

The vice chairman invited Jim Campi to the table to talk about the United States Semiquincentennial. First, Mr. Campi thanked members for endorsing the American Battlefield Preservation Act today. He then explained that the Commission is a congressional commission composed of 33 members: elected officials, 16 private citizens, and ex-officio members representing various federal agencies, departments, and organizations like the Smithsonian and National Archives.

The American Battlefield Trust was selected by NPS in May 2018 to be the administrative secretariat of the commission. Together with the commission they are creating what is going to be called the America 250 Foundation. America 250 is going to provide private-sector fundraising and administrative support for the commission. He showed a PowerPoint presentation.

The Semiquincentennial Commission is preparing to go forth with a series of listening sessions beginning this fall to engage diverse audiences and help it develop its programmatic plans for the 250th anniversary. He also is working initially to develop signature programs, national programs that would commemorate important anniversaries and would also potentially have a lasting legacy beyond the 250th. A national civics and history education initiative is under consideration. He would anticipate working with governors, state legislatures, and state commissions on that. He asked members how existing preservation initiatives or activities they are already engaged in can be enhanced during the America 250 commemoration.

Mr. Franklin suggested a better way to acknowledge Native Americans in the Constitution. Mr. White said that alludes to the broader issue that this is a real opportunity for all Americans to acknowledge the fact that not everyone celebrates this occasion in the same way or celebrates it at all. It would be a good time to acknowledge the broader America and both the opportunities and the challenges and the shortfalls as well as the great things that have happened. Ms. Guen said the 250th anniversary offers an opportunity for projects to clarify and update history that has not been clearly told to date.

## **Historically Black Colleges and Universities Project**

Mr. Stanton said the previous day the Communications, Education, and Outreach (CEO) Committee had seven students from Morgan State University share their experiences with Touching History: Preservation in Practice. The ACHP expanded the program to include Tuskegee University, which means a total of 18 students would have an opportunity to experience hands-on preservation work.

He commended the leadership and support of the National Trust for Historic Preservation and the NPS. The CEO Committee will be developing recommendations for opportunities to expand partnership among other ACHP members. The program might then involve three or four more universities.

A key component is the White House initiative on the support of Historically Black Colleges and Universities (HBCU). The ACHP and its two principal partners have been rated A+ for this program as a signatory example of the President's initiative on HBCUs.

Vice Chairman Forsman thanked Mr. Stanton and the staff for the hard work. It was evident the previous day in the presentation, and he enjoyed hearing the students' plans for the future and the fact that they were getting introduced to historic preservation. Mr. Fowler reminded members of the critical role the ACHP Foundation plays in making these projects work. They are a nonprofit partner that does a lot of the administrative and logistical support that could not be done in-house.

Mr. Tannenbaum reported on the Federal Agency Programs Committee meeting. Noting the ACHP training program, he commended Katty Harris for her excellent work. The committee discussed creating a



work group on leveraging federal historic buildings as recommended in the Preserve America Section 3, 2018 Report to the President. Members recommended the work group look specifically at Section 111 leasing authorities and ways to use them. Mr. Tannenbaum commended the Department of Veterans Affairs (VA) for their early joining in this effort, and their interest in working with the ACHP on it. He asked the chairman to approve sending invitations to the following agencies: the US Forest Service, GSA, National Aeronautics and Space Administration, NPS, US Postal Service, VA, NCSHPO, and the National Trust for Historic Preservation.

### **New Business**

Vice Chairman Forsman said there is no new business. The fall meeting is scheduled for November 6-7. This may be altered based on the strategic planning discussion. For now, the meetings are expected to be in Washington, D.C.

He thanked the Smithsonian for hosting the meeting. He asked the Creator to put a blessing on everybody in their travels and moving forward and enjoy their summer. Mr. Franklin made a motion to adjourn, and Mr. Tannenbaum seconded it. The meeting adjourned at 1 p.m.